



STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS

Draft

Date Amended:	09/14/01	Bill No:	SB 236
Tax:	Pet Registration	Author:	O'Connell
Board Position:		Related Bills:	SB 2102 (1998)

BILL SUMMARY

This bill would require every seller or breeder of a dog or cat less than one year old to pay a registration fee to a county, city, or city and county agency providing animal control services.

ANALYSIS

Current Law

Under current law, Government Code Section 38792 authorizes cities to impose and collect a license fee on every dog owned or harbored within the city limits for a period not to exceed two years and not to exceed the cost of services relating to dogs, including, but not limited to, animal shelters.

Effective January 1, 2002, Health and Safety Code Section 122045 defines “dog breeder,” or “breeder” to mean a person, firm, partnership, corporation, or other association that has sold, transferred, or given away all or part of three or more litters or 20 or more dogs during the preceding 12 months that were bred and reared on the premises of the person, firm, partnership, corporation, or other association. The definition does not apply to publicly operated pounds, humane societies, or privately operated rescue organizations.

Under current Sales and Use Tax Law, Revenue and Taxation Code Section 6019 defines “retailer” as any individual, firm, copartnership, joint venture, trust, business trust, syndicate, association, or corporation making more than two retail sales of tangible personal property during any 12-month period. Therefore, any breeder making more than two sales of puppies or kittens during any 12-month period is required to obtain a seller’s permit and report the tax on those sales (unless the sale is made to another retailer who acquires the animal for the purposes of reselling it, in which case, no tax would be due on that sale).

Proposed Law

This bill would add Civil Code Section 1730 to require sellers and breeders of a dog or cat less than one year old to pay a registration fee for the sale to the county, city, or city and county agency providing animal control services. In addition, the registration fee receipt number issued by the local agency would be required to be displayed in any advertisement for the sale of the dog or cat. The local agency would obtain from the *This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board’s formal position.*

seller or breeder the age, sex, color, and breed of the dog or cat and the street address and telephone number of the seller. The local agency would establish the fee and it would be the legislature's intent that the proceeds from the fee would supplement, and not supplant, the existing funding, and be used only for the following purposes:

- Public education program to prevent overpopulation of dogs and cats.
- Programs to spay or neuter dogs or cats.
- Safe and sanitary shelter of dogs and cats.
- Programs to encourage the adoption of dogs and cats.
- Cost of microchipping dogs and cats.
- Costs of administering the provisions of this section.

While the county clerk or the agency providing animal control services would be required to maintain records regarding the number and type of dogs and cats sold and the source of the dogs and cats, the name and address of the seller would not be open to public inspection.

A "seller" would not include a person or organization that shelters dogs and assesses a fee to recover the costs of sheltering dogs or cats.

This bill would also add Civil Code 1731 to require the seller of any dog or cat to microchip the pet and have the owner's identification entered into a local registry maintained by a county, city, or city and county providing animal control services or into a national registry.

In addition, this bill would amend Food and Agricultural Code Section 30502 to require the owner of a dog to notify animal control when he or she transfer a dog to a new owner and to provide contact information for the new owner of record.

COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by the Animal Legislative Action Network and is intended to address problems related to "backyard breeders," unregistered breeders operating out of their homes. The sponsor states that backyard breeders are the major contributors to pet overpopulation and are also responsible for the rampant breeding of dogs for malicious purposes. The registration fees collected would be used by local animal control agencies to address dog and cat overpopulation – for the cost of administering a program, for public education of the importance of spay and neuter, the availability of adoption of companion animals, and the care and shelter of abandoned dogs and cats. In addition, the registration information could be used by local law enforcement officials to track and stem the breeding and training of malicious dogs. The microchip requirement is intended to help return lost pets, reduce the stress on animal shelters, foster responsible pet ownership, and track owner's of vicious dogs who allow their dogs to roam and cause bodily harm to humans.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

2. **With amendments, registration provision may aid the Board in discovering unregistered retailers.** This bill would require a seller of a dog or cat to pay a registration fee to the local animal control agency and also provide to that agency their street address and telephone number. The registration number would be displayed in any advertisement for the sale of the dog or cat. This bill specifically provides that the seller's name and address would not be open to public inspection. However, if the bill were amended to allow the Board access to the seller's information, the Board could use this information to verify that the seller was a registered retailer collecting sales tax on their retail sales and complying with current Sales and Use Tax Law.
3. **Related legislation.** Senate Bill 2102 (Rosenthal, 1998) would have required a dog breeder to obtain a seller's permit from the Board and transferred to the Dog Breeder's Compliance Fund the sales tax revenue at the 5 percent rate on all retail sales of dogs. SB 2102 failed passage in the Senate Judiciary Committee and the sales tax provisions were amended from the bill on May 6, 1998. The Board voted to oppose the bill because of the reporting burden the bill would have imposed on retailers to segregate their taxable sales between dogs and all other taxable items. While the intent of SB 236 is also to make dog breeders compliant with various reporting requirements, it does not contain the burdensome sales tax segregation requirements.

COST ESTIMATE

This bill would not directly impact the Board.

REVENUE ESTIMATE

This measure would not directly impact the state's revenue.

Analysis prepared by:	Kevin A. Beile	323-7169	11/19/01
Contact:	Margaret S. Shedd	322-2376	

G:\Legislative\SENBILL\0236-1kb.doc

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.